Supreme Court, U.S.
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IN THE

SUPREME COURT OF THE UNITED STATES

Original Action No. 40

OCTOBER TERM, 1969

COMMONWEALTH OF PENNSYLVANIA,
Plaintiff

v.

STATE OF NEW YORK, STATE OF FLORIDA, STATE OF OREGON, COMMONWEALTH OF VIRGINIA, and THE WESTERN UNION TELEGRAPH COMPANY,
Defendants

MOTION OF THE STATE OF CALIFORNIA FOR LEAVE TO INTERVENE AS A PARTY PLAINTIFF

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TO THE HONORABLE, THE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

The State of California respectfully represents as follows:

1. On or about March 30, 1970, the Commonwealth of Pennsylvania filed a Motion for Leave to File Complaint in the above Original Action, together with

a copy of the proposed Complaint and that leave to file was granted on or about June 15, 1970.

2. By the said Complaint the plaintiff averred, inter alia, as follows:

> That the Western Union Telegraph Company, defendant, is a New York corporation, and that as part of its business it is engaged in the telegraphic money order business;
>
> That in such telegraphic money order business the company receives moneys from purchasers of telegraphic money orders in one State for transmission of the amount of the money orders to other persons, either in the same State or in other States;
>
> That by the terms of the telegraphic money orders, it is provided that if payment of the amount of the telegraphic money order is not effected within the time therein specified (in most cases 72 hours, or other cases 5 days or 10 days) the telegraphic money order will be cancelled, and the moneys returned to the sender of the telegraphic money order;
>
> That in many cases, payment has not been effected within the time specified;
>
> That in approximately 20% of the cases in which payment has not been effected, the company issued its draft for the amount of the telegraphic money order, either to the sendee, the person to whom the telegraphic money order was destined, or to the sender of the telegraphic money order, but that such drafts, whether issued to the sendee for the amount of the telegraphic money order, or to the sender for the amount to be returned to him, have not been presented or paid;

That in 80% of the cases in which the payment to the sendee of the amount of the telegraphic money was not effected and the telegraphic money order was cancelled and Western Union was unable to make refund to the sender of the telegraphic money order, and that in such 80%, no drafts were issued either to sendee or to sender;

That Western Union holds approximately $1,500,000.00 received by it for telegraphic money orders issued by the company prior to December 31, 1962, as to which payment to the sendee has not been effected and refund has not been made to the sender;

That of the said sum of approximately $1,500,000.00 so held by Western Union approximately $100,000.00 was received by Western Union for telegraphic money orders issued by the company to purchasers in Pennsylvania;

That under the laws of the Commonwealth of Pennsylvania, the persons entitled to the money held by Western Union on account of telegraphic money orders purchased in Pennsylvania are the senders of the money orders;

That under the laws of the Commonwealth of Pennsylvania, where such moneys received by Western Union for telegraphic money orders issued to purchasers in Pennslyvania have been unclaimed, or the whereabouts of the persons entitled have been unknown for the period of seven years, the said moneys are subject to escheat or custodial taking by the Commonwealth of Pennsylvania;

That the said sum of approximately $100,000.00 so held by Western Union on account of money orders purchased in Pennsylvania has been un-

claimed or the whereabouts of the persons entitled have been unknown for the period of seven years;

That the Commonwealth of Pennsylvania claims that it is entitled to the escheat or custody of the said sum of approximately $100,000.00 held by Western Union, as aforesaid;

That the State of New York, defendant, claims that as the State of Domicile of the obligor, Western Union, it is the State entitled to the escheat or custody of the entire sum of approximately $1,500,000.00 held by Western Union as aforesaid;

That there is therefore a controversy between Pennsylvania and New York as to the sum of approximately $100,000.00 held by Western Union, as aforesaid;

That as to the said sum of $100,000.00 received by Western Union for money orders issued by Western Union for money orders purchased in Pennsylvania, other States claim the right to the escheat or custody of such portions thereof as were destined to sendees in such other States, or as to which drafts were issued to the sendees in such other States;

That as to such portions of the sum of $100,000.00 held by Western Union arising out of telegraphic money orders issued to purchasers in Pennsylvania and destined to sendees in other States there is a controversy not only between Pennsylvania and New York, but also between such five States and the State to which the telegraphic money orders were destined;

That a similar controversy or controversies may exist as other portions of the said sum of $1,500,-

000.00 held by Western Union arising out of telegraphic money orders issued by Western Union to purchasers in States other than Pennsylvania;

That it is necessary that a rule be declared determining which of the several States has the paramount right to the escheat or custody of the money so held by Western Union;

That Pennsylvania believes that the rule which is fair and equitable and most consonant with the nature of telegraphic money order transactions, is that the State in which the telegraphic money order was issued is the State which has such paramount right.

3. That the State of California is a party in interest, because many telegraphic money orders issued by Western Union have been issued to purchasers in this State, and Western Union holds moneys received for telegraphic money orders issued by Western Union to purchasers in this State or to which payment has not been effected, and the moneys received by Western Union for such telegraphic money orders have been unclaimed and upon information and belief total approximately $100,000.00.

4. That the State of California believes that the rule submitted by the Commonwealth of Pennsylvania—that the State in which telegraphic money orders have been issued by Western Union to purchasers is the State entitled to the escheat or custody of the unclaimed amounts held by Western Union on account of such telegraphic money orders—is fair and equitable.

WHEREFORE, the State of California prays that it be granted leave to Intervene as a party plaintiff in the within proceedings and to file a Complaint herein.

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Defendants

PROOF OF SERVICE

I, JAY L. SHAVELSON, Assistant Attorney General of the State of California, hereby certify that I am one of the attorneys for the movant, State of California, that I am a member of the Bar of the Supreme Court of the United States, and that on the ____ day of ----------, 1970, I served copies of the foregoing Motion of the State of California for Leave to Intervene as a Party Plaintiff, on the plain-

tiff, Commonwealth of Pennsylvania, on each of the parties defendant and the State of Connecticut by depositing such copies, air mail postage prepaid, in a United States Post Office, addressed as follows:

1. Commonwealth of Pennsylvania

   (a) Hon. Raymond P. Shafer
   Governor of the Commonwealth of Pennsylvania
   Harrisburg, Pennsylvania

   (b) Hon. William C. Sennett
   Attorney General of the Commonwealth of Pennsylvania
   Harrisburg, Pennsylvania

2. State of New York

   (a) Hon. Nelson A. Rockefeller
   Governor of the State of New York
   Albany, New York

   (b) Hon. Louis J. Lefkowitz
   Attorney General of the State of New York
   Albany, New York

3. State of Florida

   (a) Hon. Claude R. Kirk, Jr.
   Governor of the State of Florida
   Tallahassee, Florida

   (b) Hon. Earl Faircloth
   Attorney General of the State of Florida
   Tallahassee, Florida

4. State of Oregon

   (a) Hon. Tom McCall
   Governor of the State of Oregon
   Salem, Oregon

   (b) Hon. Lee Johnson
   Attorney General of the State of Oregon
   Salem, Oregon

5. Commonwealth of Virginia

   (a) Hon. Mills E. Goodwin, Jr.
   Governor of the Commonwealth of Virginia
   Richmond, Virginia

   (b) Hon. Robert Y. Button
   Attorney General of the Commonwealth of Virginia
   Richmond, Virginia

6. State of Connecticut

   (a) Hon. John Dempsey
   Governor of the State of ~~Connecticut~~
   Hartford, Connecticut

   (b) Hon. Robert K. Killian
   Attorney General of the State of Connecticut
   Hartford, Connecticut

7. The Western Union Telegraph Company

   (a) John M. Evans, Esq.
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